

AMENDED IN ASSEMBLY APRIL 27, 1998

AMENDED IN SENATE JULY 14, 1997

AMENDED IN SENATE JUNE 19, 1997

AMENDED IN SENATE MAY 20, 1997

AMENDED IN SENATE MAY 6, 1997

AMENDED IN SENATE MARCH 31, 1997

SENATE BILL

No. 30

Introduced by Senator Kopp

December 2, 1996

An act to ~~amend Section 5151 of~~ *add Section 5103 to the* Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 30, as amended, Kopp. Property taxation: refunds: ~~interest rate~~ *credit substitution*.

Existing property tax law sets forth requirements and procedures for the payment of refunds pursuant to the timely filing by a taxpayer of a sufficient claim, as provided, or pursuant to a legal action filed by the taxpayer.

This bill would, as provided, authorize a taxpayer and a county or city and county to enter into a written agreement pursuant to which credits against the payment of future property tax liabilities would be substituted for the payment to the taxpayer of refunds of amounts of tax and any interest accrued thereon.

~~Existing property tax law generally requires that interest be paid at the greater of either 3% per annum or the “county pool apportioned rate,” as defined, on any amount that is refunded to a property taxpayer. Existing law also provides that this general requirement does not apply to interest payable on refunds of those amounts of tax that became due and payable before March 1, 1993, and provides for interest to be paid at the rate specified prior to January 1, 1993, in the case of the refund of a tax that became due and payable prior to March 1, 1993, and was not refunded as of April 6, 1995. Existing law specifies that amendments made to these interest rate provisions by a certain act apply to all refunds made after January 1, 1997.~~

~~This bill would eliminate the current exclusion from, and modification of, general interest rate provisions for refunds of property taxes, and would instead, as provided, require that any interest paid after April 6, 1995, be calculated at the rate of 9% per annum from that date on or after December 31, 1980, upon which interest begins to accrue, to December 31, 1992, inclusive; at the county pooled apportioned rate from January 1, 1993, to December 31, 1995, inclusive; and at the greater of 3% per annum or the county pool apportioned rate from January 1, 1996, to and including the date 30 days prior to the date of mailing or personal delivery of the refund. This bill would also prohibit any interest payment made prior to April 6, 1995, from being modified or being subject to modification as a result of any amendment to property tax refund interest rate provisions that took effect on or after January 1, 1996, and on or before January 1, 1998.~~

~~Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.~~

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. (a) The Legislature finds and declares~~
- 2 ~~SECTION 1. Section 5103 is added to the Revenue~~
- 3 ~~and Taxation Code, to read:~~
- 4 ~~5103. Notwithstanding any other provision of law, a~~
- 5 ~~taxpayer and the county or city and county may enter~~
- 6 ~~into a written agreement to substitute credits against a~~

1 taxpayer's future tax liabilities for the payment by the
2 county or city and county to that taxpayer of refunds of
3 tax and any interest accrued thereon. The authority of a
4 county or city and county to provide for tax credits in
5 accordance with this section shall be vested in that branch
6 of the county or city and county government that is
7 authorized to settle legal disputes on behalf of the county
8 or city and county.

9 ~~all of the following:~~

10 ~~(1) Amendments made to Section 5151 of the Revenue~~
11 ~~and Taxation Code since 1980 have not fully indicated the~~
12 ~~intent of the Legislature in making those changes.~~

13 ~~(2) Ambiguities in Section 5151 of the Revenue and~~
14 ~~Taxation Code have resulted in costly and~~
15 ~~time-consuming litigation between taxpayers and~~
16 ~~counties.~~

17 ~~(3) Judicial determinations with respect to Section~~
18 ~~5151 of the Revenue and Taxation Code have varied in~~
19 ~~recent cases, further compounding the confusion over~~
20 ~~what constitutes an appropriate rate of interest to be paid~~
21 ~~upon property tax refunds.~~

22 ~~(4) Appeals and legal actions thought to have been~~
23 ~~resolved are now being reopened as a result of varying~~
24 ~~interpretations of the existing statute.~~

25 ~~(b) In view of the findings and declarations set forth~~
26 ~~in subdivision (a), it is the intent of the Legislature in~~
27 ~~enacting this act to do all of the following:~~

28 ~~(1) Conform statutory language with respect to the~~
29 ~~rate of interest to be paid upon property tax refunds with~~
30 ~~legislative intent.~~

31 ~~(2) Assist taxpayers and counties in resolving~~
32 ~~outstanding disputes in an economical and efficient~~
33 ~~manner.~~

34 ~~(3) Preclude any appeal or legal action from being~~
35 ~~reopened as a result of this act.~~

36 ~~SEC. 2. Section 5151 of the Revenue and Taxation~~
37 ~~Code is amended to read:~~

38 ~~5151. (a) Except as otherwise provided in~~
39 ~~subdivision (b), interest at the greater of 3 percent per~~
40 ~~annum or the county pool apportioned rate shall be paid;~~

1 ~~when that interest is ten dollars (\$10) or more, on any~~
2 ~~amount refunded under Section 5096.7, or refunded to a~~
3 ~~taxpayer for any reason whatsoever. However, no interest~~
4 ~~shall be paid under the provisions of this section if the~~
5 ~~taxpayer has been given the notice required by Section~~
6 ~~2635 and has failed to apply for the refund within 30 days~~
7 ~~after the mailing of that notice. For purposes of this~~
8 ~~section, “county pool apportioned rate” means the~~
9 ~~annualized rate of interest earned on the total amount of~~
10 ~~pooled idle funds from all accounts held by the county~~
11 ~~treasurer, in excess of the county treasurer’s~~
12 ~~administrative costs with respect to that amount, as of~~
13 ~~June 30 of the preceding fiscal year for which the refund~~
14 ~~is calculated. For each fiscal year, the county treasurer~~
15 ~~shall advise the Controller of the county pool apportioned~~
16 ~~rate, and of computations made in deriving that rate, no~~
17 ~~later than 60 days after the end of that fiscal year.~~

18 ~~(b) Any interest paid after April 6, 1995, shall be~~
19 ~~calculated as follows:~~

20 ~~(1) At the rate of 9 percent per annum from that date~~
21 ~~on or after December 31, 1980, upon which interest~~
22 ~~begins to accrue, to December 31, 1992, inclusive.~~

23 ~~(2) At the county pooled apportioned rate, calculated~~
24 ~~for each year or any portion thereof pursuant to~~
25 ~~subdivision (a), from January 1, 1993, to December 31,~~
26 ~~1995, inclusive.~~

27 ~~(3) At the greater of 3 percent per annum or the~~
28 ~~county pool apportioned rate, calculated for each year or~~
29 ~~any portion thereof pursuant to subdivision (a), from~~
30 ~~January 1, 1996, to and including the date 30 days prior to~~
31 ~~the date of mailing or personal delivery of the refund.~~

32 ~~(c) (1) The interest computation period shall~~
33 ~~commence with the date of payment of the tax when any~~
34 ~~of the following apply:~~

35 ~~(A) A timely application for reduction in an~~
36 ~~assessment was filed, without regard to whether the~~
37 ~~refund ultimately results from a judgment or order of a~~
38 ~~court, an order of a board of equalization or assessment~~
39 ~~appeals board, or an assessor’s correction to the~~
40 ~~assessment roll.~~

1 ~~(B) The refund is pursuant to a roll correction~~
2 ~~resulting from the determination or adjustment by the~~
3 ~~assessor or a local assessment appeals board of a base year~~
4 ~~value.~~

5 ~~(C) The refund results from a correction to the~~
6 ~~assessment roll pursuant to Section 4831 or 4876.~~

7 ~~(2) Interest on refunds of taxes on property acquired~~
8 ~~by a public agency in eminent domain shall accrue from~~
9 ~~the date of recordation of the deed.~~

10 ~~(3) In all other cases the interest computation period~~
11 ~~shall commence on the date of filing a claim for refund or~~
12 ~~payment of the tax, whichever is later. However, in the~~
13 ~~event of the granting of property tax relief pursuant to~~
14 ~~Section 69, 69.3, or 170, interest is not payable on any~~
15 ~~resulting refund of taxes, provided that payment of that~~
16 ~~refund of taxes is made within 120 days after the county~~
17 ~~assessor has sent authorization for the reduction to the~~
18 ~~county auditor.~~

19 ~~(d) The computation of interest shall terminate as of~~
20 ~~a date within 30 days of the date of mailing or personal~~
21 ~~delivery of the refund payment.~~

22 ~~(e) The interest charged shall be apportioned to the~~
23 ~~appropriate funds, as determined by the county auditor.~~

24 ~~(f) (1) Except as otherwise specifically provided in~~
25 ~~this section, no interest payment that is made prior to~~
26 ~~April 6, 1995, shall be modified or be subject to any~~
27 ~~modification as a result of any amendment to this section~~
28 ~~that took effect on or after January 1, 1996, and on or~~
29 ~~before January 1, 1998.~~

30 ~~(2) Notwithstanding any other provision of this~~
31 ~~section, any payment of interest made between June 11,~~
32 ~~1997, and January 1, 1998, that is not consistent with~~
33 ~~subdivision (b) shall entitle the recipient of that payment~~
34 ~~to claim the benefit of that subdivision.~~